

At the end of subtitle B of title X, add the following:

SEC. 1013. RESUMPTION OF BORDER WALL CONSTRUCTION.

(a) FINDINGS.—Congress finds that—

(1) more than 1,700,000 migrants were encountered trying to illegally enter the United States during fiscal year 2021, which represents the highest number of illegal border crossings ever recorded by U.S. Customs and Border Protection;

(2) at least 1,300,000 migrants have illegally crossed the international border between the United States and Mexico since President Biden suspended border wall construction, which represents a 314 percent increase in illegal border crossings compared to fiscal year 2020;

(3) the actual number of migrants who illegally crossed the international border between the United States and Mexico and bypassed law enforcement during fiscal year 2021 is unknown;

(4) U.S. Customs and Border Protection set twenty year records for encountering the highest number of illegal border crossers per month in March 2021, April 2021, May 2021, June 2021, and July 2021;

(5) President Biden's efforts to suspend or terminate border wall construction have cost taxpayers between \$1,837,000,000 and \$2,087,000,000 since January 20, 2021, and such costs are increasing by at least \$3,000,000 daily;

(6) Congress has voted multiple times, on a bipartisan basis, to authorize the construction of a border wall system along the international border between the United States and Mexico; and

(7) a border wall system is an effective tool for enhancing border security.

(b) RESUMPTION OF BORDER WALL CONSTRUCTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law—

(A) all contracts entered into by the Secretary of Homeland Security, the Commissioner of U.S. Customs and Border Protection, the Commanding General of the Army Corps of Engineers, the Secretary of Defense, or any other Federal official for the purposes of constructing a barrier along the southwest land border of the United States shall be carried out according to the terms and conditions that were in effect on or before January 19, 2021; and

(B) all materials acquired by the Department of Homeland Security (including U.S. Customs and Border Protection), the Department of Defense (including the Army Corps of Engineers), or any other Federal agency for the construction of a barrier along the southwest land border of the United States shall remain under the custody of the agency that acquired such materials.

(2) EXECUTION OF CONTRACTS.—Any Federal agency that has acquired any materials described in the paragraph (1)(B) shall carry out all contracts involving such materials according to the terms and conditions that were in effect on or before January 19, 2021.

(3) RENEWAL OF CONTRACTS.—The Department of Homeland Security (including U.S. Customs and Border Protection), the Department of Defense (including the Army Corps of Engineers), and any other Federal agency that has terminated contracts pursuant to Presidential Proclamation 10142 (86 Fed. Reg. 7225) shall make every effort to renew and reenter such contracts according to the terms and conditions that were in effect on or before January 19, 2021.

(c) REPORT.—Not later than 90 days after the date of the enactment of the Act, the Director of the Office of Management and Budget, the Secretary of Homeland Security, the Commanding General of the Army Corps of Engineers, and the Secretary of Defense

shall jointly submit a written report to the Committee on Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Appropriations of the House of Representatives, the Committee on Homeland Security of the House of Representatives, and the Committee on Oversight and Reform of the House of Representatives that—

(1) identifies the contracts for border wall construction that have been terminated;

(2) calculates all of the costs incurred as a result of such terminations, including the costs for make safe and site security activities;

(3) identifies all of the materials that were liquidated as excess, including the initial purchase price and the sale price for such materials;

(4) identifies all of the lands that were liquidated as excess; including the initial purchase price and the sale price for such lands; and

(5) includes copies of any analysis or legal opinions that were developed to support the implementation of Presidential Proclamation 10142 (86 Fed. Reg. 7225).

(d) MONTHLY CERTIFICATIONS.—The Secretary of Homeland Security, the Commanding General of the Army Corps of Engineers, and the Secretary of Defense shall each submit a monthly certification to Congress that their respective departments are in fully compliance with the requirements of this section.

SA 4101. Mr. LANKFORD submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . FLEXIBILITY FOR TEMPORARY AND TERM APPOINTMENTS.

(a) TEMPORARY AND TERM APPOINTMENTS.—Subchapter I of chapter 31 of title 5, United States Code, is amended by adding at the end the following:

“§3117. Temporary and term appointments

“(a) DEFINITIONS.—In this section:

“(1) DIRECTOR.—The term ‘Director’ means the Director of the Office of Personnel Management.

“(2) TEMPORARY APPOINTMENT.—The term ‘temporary appointment’ means an appointment in the competitive service for a period of not more than 1 year.

“(3) TERM APPOINTMENT.—The term ‘term appointment’ means an appointment in the competitive service for a period of more than 1 year and not more than 5 years.

“(b) APPOINTMENT.—

“(1) IN GENERAL.—The head of an Executive agency may make a temporary appointment or term appointment to a position in the competitive service when the need for the services of an employee in the position is not permanent.

“(2) EXTENSION.—Under conditions prescribed by the Director, the head of an Executive agency may—

“(A) extend a temporary appointment made under paragraph (1) in increments of not more than 1 year each, up to a maximum of 3 total years of service; and

“(B) extend a term appointment made under paragraph (1) in increments determined appropriate by the head of the Executive agency, up to a maximum of 6 total years of service.

“(c) APPOINTMENTS FOR CRITICAL HIRING NEEDS.—

“(1) IN GENERAL.—Under conditions prescribed by the Director, the head of an Executive agency may make a noncompetitive temporary appointment, or a noncompetitive term appointment for a period of not more than 18 months, to a position in the competitive service for which a critical hiring need exists, as determined under section 3304, without regard to the requirements of sections 3327 and 3330.

“(2) NO EXTENSIONS.—An appointment made under paragraph (1) may not be extended.

“(d) REGULATIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), the Director may prescribe regulations to carry out this section.

“(2) APPLICATION.—Any regulations prescribed by the Director for the administration of this section shall not apply to the Secretary of Defense in the exercise of the authorities granted under section 1105 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 130 Stat. 2447).

“(e) SPECIAL PROVISION REGARDING THE DEPARTMENT OF DEFENSE.—Nothing in this section shall preclude the Secretary of Defense from making temporary and term appointments in the competitive service pursuant to section 1105 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 130 Stat. 2447).

“(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect the authorities granted under section 3109.”.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter I of chapter 31 of title 5, United States Code, is amended by inserting after the item relating to section 3116 the following:

“3117. Temporary and term appointments.”.

SA 4102. Mr. LANKFORD submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . REQUIREMENT TO POST A 100 WORD SUMMARY TO REGULATIONS.GOV.

Section 553(b) of title 5, United States Code, is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; and”; and

(3) by inserting after paragraph (3) the following:

“(4) the Internet address of a summary of not more than 100 words in length of the proposed rule, in plain language, that shall be posted on the Internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as regulations.gov).”.

SA 4103. Mr. LANKFORD submitted an amendment intended to be proposed

to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VII, add the following:

SEC. 744. CONSCIENCE PROTECTIONS FOR MEMBERS OF ARMED FORCES WHO PROVIDE OR ASSIST WITH PROVISION OF HEALTH CARE.

(a) IN GENERAL.—The Secretary of Defense shall not take any adverse action against a member of the Armed Forces who provides or assists in the provision of health care for the Department of Defense (including as a behavioral, mental, or physical health professional) on the basis that such member declines to perform, assist, refer for, or otherwise participate in a particular medical procedure, counseling activity, or course of treatment because of a sincere religious belief or moral conviction of such member or because the particular medical procedure, counseling activity, or course of treatment would, in the professional medical judgment of such member, be harmful to the patient.

(b) NO IMPACT ON CARE.—The Secretary shall ensure that no patient is unduly delayed in receiving any medically indicated care they are otherwise eligible to receive, including preventative, emergency, and routine care, because of compliance by the Secretary with subsection (a).

(c) ADVERSE ACTION DEFINED.—In this section, the term “adverse action” includes any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.

SA 4104. Mr. LANKFORD submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1036. BRIEFING REQUIREMENTS RELATING TO TRANSFER OF DETAINEES AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA, TO FOREIGN COUNTRIES AND OTHER FOREIGN ENTITIES.

(a) IN GENERAL.—Section 1034 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 129 Stat. 969; 10 U.S.C. 801 note) is amended—

(1) in the section heading, by striking “PRIOR REQUIREMENTS FOR CERTIFICATIONS” and inserting “REQUIREMENTS FOR CERTIFICATIONS AND BRIEFINGS”;

(2) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(3) by inserting after subsection (e) the following new subsection (f):

“(f) BRIEFINGS.—

“(1) IN GENERAL.—Whenever the Secretary makes a certification under subsection (b) with respect to an individual detained at Guantanamo, the Secretary shall provide to the appropriate committees of Congress a

classified briefing on the restrictions of the transfer of the individual—

“(A) before the transfer; and

“(B) after the transfer has been completed.

“(2) ELEMENTS.—Each briefing required by paragraph (1) shall address the threat posed by the individual to the national security of the United States.”.

(b) CONFORMING AMENDMENT.—Section 1034(c) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232; 132 Stat. 1954) is amended by striking “section 1034(f)(2)” and inserting “section 1034(g)”.

SA 4105. Mr. LANKFORD submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title XII, add the following:

SEC. 1253. ENSURING RELIABLE SUPPLY OF RARE EARTH MINERALS.

(a) FINDINGS.—Congress makes the following findings:

(1) The People's Republic of China is the global leader in mining, refining, and component manufacturing of rare earth elements, producing approximately 85 percent of the world's supply between 2011 and 2017.

(2) In 2019, the United States imported an estimated 80 percent of its rare earth compounds from the People's Republic of China.

(3) On March 26, 2014, the World Trade Organization ruled that the People's Republic of China's export restraints on rare earth minerals violated its obligations under its protocol of accession to the World Trade Organization, thereby harming United States manufacturers and workers.

(4) The Chinese Communist Party has threatened to leverage the People's Republic of China's dominant position in the rare earth market to “strike back” at the United States.

(5) The Quadrilateral Security Dialogue is an effective partnership for reliable multilateral financing, development, and distribution of goods for global consumption, as evidenced by the Quad Vaccine Partnership announced on March 12, 2021.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the People's Republic of China's dominant share of the global rare earth mining market is a threat to the economic stability, well being, and competitiveness of key industries in the United States;

(2) the United States should reduce reliance on the People's Republic of China for rare earth minerals through—

(A) strategic investments in development projects, production technologies, and refining facilities in the United States; or

(B) in partnership with strategic allies of the United States that are reliable trading partners, including members of the Quadrilateral Security Dialogue; and

(3) the United States Trade Representative should initiate multilateral talks among the countries of the Quadrilateral Security Dialogue to promote shared investment and development of rare earth minerals.

(c) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the United States Trade Representative, in

consultation with the officials specified in paragraph (3), shall submit to the appropriate congressional committees a report on the work of the Trade Representative to address the national security threat posed by the People's Republic of China's control of nearly ¾ of the global supply of rare earth minerals.

(2) ELEMENTS.—The report required by paragraph (1) shall include—

(A) a description of the extent of the engagement of the United States with the other countries of the Quadrilateral Security Dialogue to promote shared investment and development of rare earth minerals during the period beginning on the date of the enactment of this Act and ending on the date of the report; and

(B) a description of the plans of the President to leverage the partnership of the countries of the Quadrilateral Security Dialogue to produce a more reliable and secure global supply chain of rare earth minerals.

(3) OFFICIALS SPECIFIED.—The official specified in this paragraph are the following:

(A) The Secretary of State.

(B) the Secretary of Commerce.

(C) The Chief Executive Officer of the United States International Development Finance Corporation.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term “appropriate congressional committees” means—

(A) the Committee on Finance, the Committee on Foreign Relations, and the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Ways and Means, the Committee on Foreign Affairs, and the Committee on Energy and Commerce of the House of Representatives.

SA 4106. Mr. LANKFORD submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title XII, add the following:

SEC. 1253. SENSE OF CONGRESS ON INCREASING PORT AND AIRFIELD CAPACITY OF COUNTRIES IN INDO-PACIFIC REGION.

It is the sense of Congress that, as the People's Republic of China continues to grow in influence through infrastructure (specifically infrastructure that can easily be shifted from economic to military uses), the United States International Development Finance Corporation should prioritize providing alternative financing opportunities that increase port and air field capacity of countries throughout the Indo-Pacific region that—

(1) are targets of the predatory infrastructure development scheme of the People's Republic of China; and

(2) are eligible for support provided by the Corporation under title II of the Better Utilization of Investments Leading to Development Act of 2018 (22 U.S.C. 9621 et seq.).

SA 4107. Mr. LANKFORD submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed